3-2007

# 2007 Vol. 55 No. 5

Cleveland-Marshall College of Law

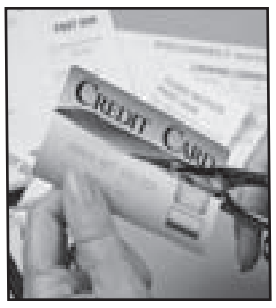
## New Rules for Discovery

The Federal Rules of Civil Procedure were amended to accomodate the increase in electronic communication and data storage. The Gavel discusses these changes with Professor Becker.

**CAREER, PAGE 6**

## Credit cards contribute to debt

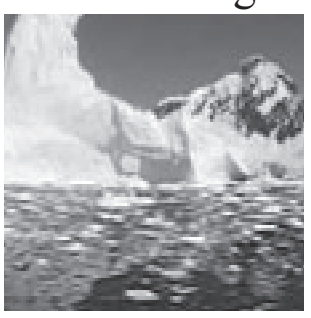
Dr. Robert Manning, author of *Credit Card Nation: America's Dangerous Addiction to Credit,* addresses the city club on this growing problem. The Gavel highlights Dr. Manning's speech.



**LAW, PAGE 2**

## Addressing global warming

As more attention is paid to global warming, The Gavel political columnists explore what, if any, government action should be taken to address this possible problem.



**BROADSIDE, PAGE 7**


# THE GAVEL

VOLUME 55, ISSUE 5 MARCH 2007

THE STUDENT NEWSPAPER AT CLEVELAND-MARSHALL COLLEGE OF LAW


## C-M student Angelin Chang wins Grammy

**By Dan Kelley**
GAVEL CONTRIBUTOR

On Feb. 12, 2007, Cleveland-Marshall College of Law student Angelin Chang picked up a unique honor for a lawyer-to-be, a Grammy Award.

The award for her performance of the virtuoso solo part in French composer Olivier Messiaen's 1955 masterwork "*Oiseaux Exotique",* or "*Exotic Birds*," came against tough competition. Some of the premiere players in classical music, such as the Gewandhaus Orchestra of Leipzig and pianist Leif Ove Andnes were nominated in the same category.

The recording was made with conductor John McLaughlin Williams leading the Cleveland Chamber Symphony, an ensemble then associated with Cleveland State University.

From the moment of its re-

See **AWARD**, page 2

# Jessup team returns with awards

**By Daniel E. Thiel**
STAFF WRITER
**and Michael Tripi**
GAVEL CONTRIBUTOR

C-M's Jessup international law moot court team competed in the pacific regional rounds at UCLA in Los Angeles on Feb. 16, 2007, and came back with awards.

The team was awarded three of the top five oralist awards, including first and second place.

C-M's team faced and defeated top tiered schools such as Washington and Lee University, University of California-Davis, and the University of Southern California.

The team, comprised of 3Ls Daniel Thiel, and Michael Tripi and 2Ls Mary Malone and Alin Rosca, competed at the competition.

Although C-M's team did not advance to the national rounds, they placed fourth overall in raw scores.

Rosca was awarded top honor for best oralist, Thiel was awarded second place, and

Photo provided by Daniel Thiel

**C-M's Jessup international law moot court team (from left to right) Michael Tripi, Daniel Thiel, Mary Malone and Alin Rosca received top oralist honors in the pacific regional rounds held at UCLA.**

Michael Tripi was awarded fifth place.

California Western, the team that advanced to nationals, suffered their only loss to Thiel and Tripi.

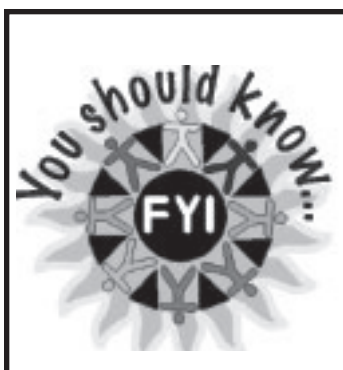
The Philip C. Jessup International Law Moot Court Competition is a global moot court competition that deals with complex legal issues in public international law.

Law schools from across the world compete by preparing legal briefs and then arguing before a simulated United Nations International Court of Justice.

The issues presented typically reflect novel questions of international law currently in the forefront of the international community.

For instance, this year's issues closely mirrored the conflict surrounding Turkey's struggle for

See **JESSUP** , page 3




## Summer and Fall Advising Scheduling

This year, first-year students will have advising sessions with Associate Deans Crocker and Falk and Assistant Dean Lifter during the week of March 26 prior to scheduling for classes.

Advising Schedule:
Day Sections
Section 1: Wednesday, 3/28, 3:45-4:45, Room 237 (after Torts)
Section 2: Tuesday 3/27, 3:45-4:45, Room 237 (after Torts)
Section 3: Thursday, 3/29, 3:45-4:45, Room 12 (after Torts)

Evening Sections
Section 61: Wednesday, 3/28, 7:00-8:00, Room 12 (after Torts)
Section 62: Monday, 3/26, 7:00-8:00, Room 12 (after Torts)

Information provided by Dean Lifter

# Graduation Challenge kicks off

**By Margan Keramati**
CO-EDITOR-IN-CHIEF

The Class of 2007 Graduation Challenge Committee held its kick-off event on Monday, March 5, 2007, in the law school atrium to encourage graduating 3Ls and the C-M community to contribute towards the Wolstein Endowed Scholarship Fund.

Members of C-M's class of 2006 began this class-specific initiative and recruited classmates to donate money towards the Wolstein Endowed Scholarship Fund as a way to invest in C-M's future in part because of Iris Wolstein's promise to match every dollar donated to the Wolstein Fund up to $1.25 million dollars.

"As the reputation of C-M grows, our degrees will become increasingly more beneficial," said Scott Kuboff, member of the committee. "By placing C-M in the best financial position to continue to retain high-caliber students, the graduating class will effectively be adding value to their degree," Kuboff added.

The 2007 committee's goal is to raise $6,500 for the Wolstein Scholarship Fund. Students can chose to make an unrestricted pledge to C-M or designate their donations towards the Community Advocacy Clinic, Delta Theta Phi Founders Rom, Employment Law Clinic, Environmental Law Clinic, Housing Advocates Clinic, Journal of Law and Health, law library, Law & Public Policy Clinic, Law Review, Moot Court, law scholarships, or operating support.

The committee members were pleased with the kick-off event, said Kuboff. "Our goal was to get our message out to the student body, specifically members of the class of 2007. It was extremely pleasing to see so many students interested in investing in C-M's future."

Future events have not been set in stone, but there will be at least one other major event before the end of this school year, Kuboff said. Committee members will be sitting at a table during lunch and dinner hours to promote the challenge.

The 2007 committee is comprised of Bill Beseth, Greg Jolivette, Scott Kuboff, Kathleen Locke, Joe Mieskowski, Jack Milss, and Jeff Stupp.

Mieskowski and Kuboff selected the 2007 committee members.

"We looked for motivated students who have shown a great sense of commitment to C-M and who have exhibited leadership characteristics on a daily basis," Kuboff said.

# C-M recruits talented and diverse students

**By Geoffrey Mearns**

In my last column, I described the strategic planning process in which we are engaged this year, and I identified the six strategic goals that we have established.

Our most important goal is to continue the implementation of our collective efforts to improve the performance of our students on the bar exam.

The Dean's Column

Those efforts, which are focused on student success, have been the subject of previous columns and lots of conversations.

So, in this column, I want to share with you what we are doing, and what we intend to do in the future, to achieve our second strategic goal - improving our efforts to recruit an academically stronger and more diverse student body.

In order to achieve this goal, we have recently created new admissions brochures. With the assistance of a team of marketing consultants, we developed printed materials that are more visually attractive.

We also developed a new brochure, which emphasizes the variety and quality of the professional opportunities that are available to our graduates.

We are now in the process of improving our Web site. As you know better than I, prospective students are much more likely to seek out information on the Web than to rely on printed materials.

Therefore, we are restructuring our Web site to enable prospective students to learn more about our law school through that medium. And under the leadership of Christopher Lucak, our new Assistant Dean for Admissions and Financial Aid, we plan to develop new strategies to communicate with prospective students by e-mail or other web-based sites.

This year, we are also enlisting dozens of graduates to assist us in recruiting admitted applicants.

We have a very strong base of committed alumni, and they are willing to support the law school in many ways.

I recently invited approximately 75 graduates from around the country to contact several admitted students, by e-mail or telephone, to answer questions and to tell these admitted students about the benefits of a C-M education.

I am grateful for the assistance of these graduates, and I am confident that their efforts will help us achieve our goal.

One of the many attributes of our law school is our close connection with the Cleveland legal community.

As you may know, Cleveland is one of the largest and most sophisticated legal communities in the country, and we are located only a few short blocks from its heart.

In order to market this attribute and to demonstrate our close relationship with the practicing community, this year we are hosting four admitted student receptions at major law firms in Northeast Ohio – at Jones Day, Squire Sanders & Dempsey, and Hahn Loeser & Parks, in Cleveland, and at Brouse McDowell, in Akron.

But in order to attract more students from outside of Ohio, we must improve the quantity and quality of the employment opportunities that are available to our graduates around the country.

We plan to enhance our relationships with, and expand our marketing efforts directed at, national law firms and non-profit and public-interest organizations located in other states.

Another positive attribute of our law school is that it is more affordable than most other law schools.

I recognize that our tuition is not inexpensive. But, we are now the most affordable law school in Ohio. So, we plan to emphasize that a C-M education is a good value.

We also plan to continue to increase the amount of scholarships that are available to students.

This year, we awarded $1.4 million in student scholarships – nearly double the amount of scholarships that we awarded only six years ago.

While we may not be able to double the amount of scholarships awarded in the next six years, we are committed to using scholarships to recruit a talented and diverse student body.

But the most effective way to recruit new students is to enlist you – our current students – in this important endeavor.

If you appreciate the value of the legal education you are obtaining, if you are excited by the professional opportunities that await you, and if you are inspired by the prospect of being able to serve others and seek justice, then join us in our efforts to attract new students to C-M.

We need your help. Our future depends on the quality of the people who will follow in your footsteps.

# In debt we trust: speaker addresses city club

**By Emily Honsa**
STAFF WRITER

The prevalence of easy consumer credit is frightening to Dr. Robert Manning, the author of *Credit Card Nation: America's Dangerous Addiction to Credit*. A specialist in deregulation of retail banking, he recently served as editorial advisor for the documentary *In Debt We Trust: America Before the Bubble Bursts*. Manning recently spoke at the City Club of Cleveland on the topic.

It is nearly impossible to find someone whose life has not been touched by the growing plague of consumer debt in the United States. As banks continue to loan to those who can least afford to repay, the new economic 'deadbeats' are those convenience users who pay their complete balance each month.

Most credit card user agreements are legal quicksand, featuring terms so complex that even a quick survey of law students reveals virtual ignorance.

Manning, director of the Center for Consumer Financial Services at Rochester Institute of Technology, fears that the transformation of credit cards from earned credit to a social entitlement and income supplement threatens the very underpinnings of our society in several ways.

First, the undisciplined attitude Americans have adopted—a negative savings rate despite extremely low interest rates—will put them at a disadvantage against countries with citizenry that is fiscally competitive.

Additionally, the foreign policy ramifications may be frightening. If the country over-indebts itself, power on the world stage may shift to those countries that are in ownership positions.

On a micro level, Manning spoke about the encroaching nature of consumer credit. He suggests that national credit card debt averages are at best unreliable and at worst deceptive because of the finance industry's encouragement that people shift their unsecured credit card debt to inventions like home equity lines of credit. There is a very strong correlation between credit card marketing and a decline in savings.

Manning explained what an over-debted America looks like: consumer credit agencies, many sponsored by the credit card companies themselves, debt consolidation, surges in foreclosures and bankruptcies. It is a state where as long as you pay your minimum payment, you are okay.

The problem with this system, according to Manning, is that it will cripple the very people it relies upon for support.

But Manning does offer practical suggestions to accompany his dire warning. Because of the magnitude of the problem, Manning warns that the public sector will not be able to help. Relief from the crisis will come only from an emphasis on fair and responsible lending and the banking industry's accountability to consumers.

However, these suggestions are more easily proposed than implemented. The banks rejected a three-year lawyer-supervised partial repayment plan.

Community based motivation is needed, as is greater regulation. Unfortunately, Manning indicates greater regulation is unlikely at this time because of the current composition of congressional committees.

Another idea designed to ameliorate the situation at present is the education of America's new generations, now credit card marketing targets.

Some local schools are now instructing children about responsible credit use.

Distribution for Manning's collaborative film, *In Debt We Trust*, includes plans to reach a national community network in 40-50 major metro areas in May or June. The key goals are raising awareness about policy issues and the importance of changes in the lending to subprime markets.

# Award: Student honored for classical music

Continued from page 1--

lease, the recording garnered glowing reviews. The premiere classical music magazine Gramophone hailed the record as "invariably excellent," while the Plain Dealer opined that Dr. Chang managed "the death-defying writing with equal dash and subtlety."

Her Grammy win comes as another feather in the cap of Cleveland's strong and varied classical music scene, which runs far beyond the (justifiably) lionized Cleveland Orchestra.

Dr. Chang, who is currently an assistant professor of piano at CSU, had the opportunity to study with the composer in the 1990s. Although Messiaen did not directly touch on 'Oiseaux Exotiques' during the course of her studies, the experience was valuable in extending her understanding of the composer's mindset, as well as her grasp of French music.

Dr. Chang recalled that Messiaen had a neurological condition known as synethesia, which entails the commingling of two or more senses. In Messiaen's case, the perception of harmony caused him to see various colors, a trait which he used to construct idiosyncratic theories about music and harmony.

She recalls that Messiaen's approach to music was strongly influenced by his devout Catholicism, and in particular, the life of his patron Saint Francis of Assisi, who was renowned for his love of nature and animals. The composer was fascinated by birdsong and endeavored to capture the sounds in musical notation.

Dr. Chang discovered the remarkable accuracy of Messiaen's transcriptions via computer analysis of the recorded birdsongs. One of several musical products of Messiaen's fixation on birdsong was the piece '*Oiseaux Exotiques*.'

The recording of the Messiaen work was made in 2004 and coupled with a recording of Shostakovich's "*Piano Concerto No.1"*. Both were recorded on the CSU campus by engineer David Yost.

Students who are frustrated with busy schedules and demanding classes may wish to consider this excerpt from Dr. Chang's Web site: "[She] serves as the North America Representative for the Festival Afro-Asiatique Mondial des Oeuvres de Solidarité (FAMOUS), and President of the Panafrican Music and Arts Festival/Piano Division. She is a member of the Board of Trustees for the Great Lakes Theater Festival (Cleveland), Co-President of the Ohio Music Teachers Association Northeast District, and State Coordinator for the Music Teachers National Association Young Artists Competition and MTNA Chamber Music Competition."

Dr. Chang plans to use her legal credentials to help other musicians.

Students will have an opportunity to hear Angelin Chang perform at 8:00 p.m. on March 27, 2007, in Waetjen Auditorium, on the CSU campus. Additionally, there will be a Grammy celebration and reception immediately following the recital in the department of music. Students are encouraged to attend.

# Ohio Supreme Court to hear case on constitutionality of speeding cameras

**By Kevin Shannon**
STAFF WRITER

Anyone who commutes to and from C-M from the east side is familiar with the red light and speeding cameras on Chester and Carnegie Avenues.

There are traffic cameras in other areas of the city, but the cameras along Chester and Carnegie seem to be the most visible and lucrative.

Traffic cameras, like the ones in Cleveland, have been challenged across the country on many different grounds. Some argue that they violate due process because they shift the burden of proof to the defendant. The cameras take a picture of the vehicle's license plate and send a ticket to the registered owner of the vehicle.

They do not automatically ticket the driver of the vehicle. If the driver was not the registered owner, then the owner must prove that someone else was at the time of the violation.

In legal terms, a camera ticket is prima facie proof of a violation, and the burden is shifted to the defendant to prove that he was not driving or violating the law.

Others have argued that the cameras violate equal protection because the procedure of enforcement differs from the procedure involved when police officers issue tickets at the scene of the violation.

Others contend that the cameras represent an illegal search and seizure under the Fourth Amendment.

These arguments are fueled by citizens' fears of a "Big Brother" government interfering in their private lives.

While these arguments raise interesting points, they have thus-far failed in the federal courts because traffic camera violations are not criminal offenses.

Municipalities treat them as civil offenses; therefore, a ticketed owner is not entitled to the same rights and protections that a criminal defendant would receive.

An interesting case currently pending in the Ohio Supreme Court might make this distinction irrelevant and find that traffic cameras violate the Ohio Constitution.

Kelly Mendenhall, the plaintiff in the case (*Mendenhall v. City of Akron*), is arguing that Akron's municipal traffic camera ordinance conflicts with Ohio Revised Code (O.R.C.) traffic statutes.

The Ohio Constitution gives municipalities the power of home rule. Under Article 18, section 3 of the constitution, municipalities have the authority to "exercise all powers of local self-government."

This allows them to enact police and sanitary regulations as long as they do not conflict with general laws of the state.

Mendenhall is arguing that since the O.R.C. has a broad and detailed system of traffic regulations, Akron's traffic camera ordinances conflict with the state's regulations.

Traffic violations under the O.R.C. are enforced criminally and establish a points system that assesses points to an individual's driving record. If a driver accumulates a certain number of points in a specified time period, his or her driver's license will be suspended. This system is designed to keep unsafe drivers off the road.

Traffic camera violations, on the other hand, are civil infractions and specifically state that no points will be assessed to the driving record of the vehicle's owner.

As Mendenhall argues, this conflicts with the express will of the Ohio Legislature that traffic violations are criminal and should be enforced to protect the state's drivers.

The Ohio Legislature has never passed legislation allowing civil enforcement of traffic laws.

Photo by Kathleen Locke

**Red light and speeding cameras on Clifton Blvd. in Lakewood could be removed.**

The only area where the legislature has allowed civil enforcement is with parking tickets. This seems logical because parking violations are unlikely to produce dangerous accidents and harm lives.

Speeding and running red lights, however, can be dangerous and cause fatal accidents. Therefore, the legislature insists on stricter penalties and the possibility of license suspension for traffic violations.

Mendenhall's argument has been successfully advanced in other states. Recently, a Minnesota court found that traffic cameras violated the home rule provision of the Minnesota Constitution.

Also, the Michigan Attorney General recently wrote an opinion letter stating his belief that traffic cameras violated the Michigan Constitution.

While Mendenhall and other plaintiffs have a valid argument, cities counter that with their need to keep their streets safe.

Another valuable benefit to the cities is the revenue that cameras generate. When Mayor Jane Campbell first proposed Cleveland's traffic cameras, she stated that they would help close a serious budget gap.

The cameras are much cheaper than hiring police officers to enforce traffic laws. The volume of tickets issued generates a significant amount of revenue, considering that the fines start at one hundred dollars. Traffic cameras represent a valuable revenue source for Ohio's cities, and they have fought hard to keep them.

Last December, the Ohio Legislature passed a law that would have banned the use of speeding cameras and would have severely restricted the use of red light cameras.

This law would have made it economically impractical for cities to maintain their traffic cameras.

Immediately after the bill's passage, mayors of several large Ohio cities (including Mayor Frank Jackson) began lobbying Governor Bob Taft to veto it.

Mayor Jackson stated that the bill demonstrated the legislature's "anti-urban agenda" and that it "discriminates against Cleveland, interferes with our right to enter into contracts and our right to self-governance."

Responding to this pressure, Governor Taft vetoed the bill on his last day in office. This allowed the cities to maintain the revenue source that they had come to depend on.

It is up to the Ohio Supreme Court to decide whether the use of traffic cameras will continue.

# Journal hosts speaker on FDA problems

**By Lindsey Renninger**
GAVEL CONTRIBUTOR

On Feb. 20, 2007, the C-M's Journal of Law and Health presented the second speaker of its 2006-2007 annual lecture series: Dr. Joseph R. Lex, an Assistant Professor of Emergency Medicine at Temple University School of Medicine.

Dr. Lex drew an audience comprised of students, area practitioners, and C-M faculty. This was Dr. Lex's second visit to speak at C-M.

Dr. Lex presented *The FDA: A Watchdog That Doesn't Bite and has No Incentive to Bark.*

The Food and Drug Administration is responsible, in part, for ensuring that prescription drugs and medical devices sold in the United States are safe and effective.

The lecture described the FDA's battle to protect the health of Americans. Dr. Lex explained that low staffing, limited government funding, and pharmaceutical companies' ever growing monetary and political influence are some of the most serious challenges to the FDA's regulatory power.

Dr. Lex argued that the FDA's waning regulatory power has caused serious and even deadly consequences.

For example, Dr. Lex stated that more than 100,000 deaths each year in the United States are the result of properly prescribed drugs.

In spite of this fact, Dr. Lex indicated that the FDA approves nearly 80 percent of all drugs seeking consumer sale in a review period of just six months.

Dr. Lex also explained that the FDA division responsible for reviewing the safety and effectiveness of new drugs is funded entirely by the very same pharmaceutical companies that seek drug approval.

Dr. Lex opined that the role of large pharmaceutical companies in the funding of the FDA places these companies in yet another questionable position.

In Dr. Lex's October 2005 lecture at C-M, he spoke about the questionable and complex physician-pharmaceutical industry relationship. Dr. Lex's 2005 lecture drew both criticism and praise from students.

Austin McGuan, the Journal of Law and Health's Co-Editor-in-Chief said, "Dr. Lex's presentation was another opportunity for the Journal of Law and Health to fulfill its mission of engaging the C-M community in the exploration and discussion of controversial health care issues."

Dr. Lex is a well-known speaker, author, and editor of a variety of publications. The Journal of Law and Health provided the lecture at no cost to the public, and one free hour of CLE credit was available.

The Journal of Law and Health sponsors speaker events throughout the academic year.

The series continues this spring with Professor Deborah W. Denno, J.D., Ph. D. Professor Denno will introduce *Legal Implications of Research on Genetics and Crime.* She teaches at Fordham University School of Law and is a distinguished Arthur A. Givney Professor of Law.

# Jessup: Students debate international law

Continued from page 1--

accession into the European Union.

This is the second year in a row that C-M has won awards at the Jessup competition.

Last year's team advanced to the semi-finals, and their brief ranked first out of over twelve schools that included Case Western and the University of Michigan.

The team is coached by Sigmund Fuchs. Fuchs is a 2003 C-M graduate and has been coaching the Jessup team since 2004.

Under his guidance and with the diligent work of Marshall students, Fuchs hopes to lead future Jessup teams to a national victory.

C-M not only competed in California, but they also hosted the North Central Regional. Fourteen schools from across Ohio, Michigan and Indiana gathered at C-M throughout the weekend of Feb. 23, 2007. Organized by Karin Mika and Sandra Natran, the competition was successful.

Legal professionals throughout Cleveland and the Northeast Ohio area graciously volunteered their time to judge the 31 rounds, and students and staff ensured that the competition ran smoothly.

The International Law Student Association will hold try-outs this spring for spots on next year's C-M Jessup team. Students interested in participating in next year's Jessup competition should keep in mind that briefs are due April 6, and Oral rounds will be held April 18.

Students will prepare a short brief on an international issue and make a short oral argument. The Jessup team is not a part of C-M's Moot Court program; therefore, it is open to all students that will be returning the following year. Membership is a great way to improve your written and oral advocacy skills and learn more about public international law.

# Intramural sports help reduce stress

**By Tiffany Elmore**
STAFF WRITER

For most C-M students, maintaining a balance of personal wellbeing, rigorous studying and active job hunting is an exhausting effort.

It is difficult to fit in a few hours of sleep let alone thirty minutes of exercise.

But don't despair, because just an hour of sitting burns eighty-one calories. Still, an active exercise regime is linked to preserving health and reducing stress.

According to MayoClinic.com, people should workout an average of thirty minutes each day for optimal health benefits.

Maybe you cannot spare thirty minutes every day but are still interested in fitness and active recreation.

Many C-M students are taking time out of their busy schedules to foster the "athlete within" by participating in intramural sports, such as basketball, flag football and soccer.

Of course, incorporating intramural activities into a law school schedule is a challenging task, but students argue that the rewards make it possible.

"Intramurals are a chance to have a lot of fun and get away from the library for a while," said Nick Hanna, 2L, and active intramural participant. Most students can attest to a lack of social activity outside of the classroom, but involvement in intramural sports is a great way to interact with fellow students.

The aim of intramural sports is to develop leadership skills, maintain healthy lifestyles, and achieve personal growth. Participating in intramural sports completes the C-M experience and is good for anyone who enjoys being active and a little competitive, Hanna said.

The Cleveland State recreation center offers many tools to help you get involved in intramural sports.

Information can be found at www.csuohio.edu/recreation_center for activity and schedule information.

# BLSA members volunteer at Lakeside Homeless Shelter

**By Shawn Romer**
CO-EDITOR-IN-CHIEF

On Feb. 10, 2007, C-M's Black Law Student Organization, BLSA, conducted a charity event at the Lakeside Homeless Shelter on Lakeside Avenue in downtown Cleveland. Twelve BLSA members and their families participated in the event, along with over 25 other volunteers at the shelter.

The students assisted the shelter in serving a full meal to any homeless person who attended. Students and volunteers also assisted in food preparation and clean-up after the meal was served.

The Lakeside Homeless shelter regularly serves full meals to the homeless. The program is administered by Manna Food From Heaven Ministries, a non-profit group comprised of members of various churches throughout the greater Cleveland area, including Mount Gillion Baptist Church, Everlasting Baptist Church, Love Center Interdenominational Church, Straightway Christian Community Church, The Word Church, Mount Pleasant Baptist Church, and Mount Zion of Oakwood. The organization has regularly served meals since 1999

The program serves meals from 11 a.m. until 6 p.m. on three Saturdays a month. Generally, 950 hot meals are distributed on each occasion. All food is prepared at the Lakeside location, though some of it is transported to other shelters in the Cleveland area to be served to homeless in those areas.

In the month of February alone, over 1700 meals were served to the homeless. Approximately 175,000 meals have been served since the program was established in 1999.

One of BLSA's priorities for the 2006-2007 school year was to increase its community service participation in the Cleveland area, according to Myla Humphrey, secretary for BLSA.

Pamela Daiker-Middaugh, director of the pro-bono programs at C-M, recommended this particular activity to BLSA.

"I enjoyed it. It gave us the opportunity to help those less fortunate than ourselves," said Humphrey about her volunteering experience.

First, many BLSA members brought their families, including their young children, Humphrey said. According to Humphrey, members brought their children to "get attuned to helping out at a young age." It was also refreshing and encouraging to see many former recipients of free meals now helping out at the shelter, added Humphrey.

Anyone interested in assisting the efforts of the shelter can help in many ways. The shelter accepts cash donations, and anyone who would like to assist in preparation, serving, and clean-up is welcome.

For more information on the program and Manna Food From Heaven Ministries, their Web site can be found at http://www.mannafoodfromheaven.org.

# C-M Journal of Law and Health to begin publishing exclusively online

**By Kathleen Locke**
CO-EDITOR-IN-CHIEF

Beginning next year, the C-M Journal of Law and Health will publish all of its notes and articles exclusively online, a change that will make the Journal free and open for public access on the Journal's Web site.

The change from the current printed version to the online version will benefit both the public and the Journal in several ways, according to Journal Co-Editor-in-Chief Austin McGuan.

"Online access to the Journal of Law & Health will increase awareness of some of the important legal issues addressed within the publication, as the publication will be much more accessible to professors, lawyers, law students, doctors, and other interested people," Journal Co-Editor-in-Chief Anupriya Krishna said.

The move will also expedite the current printing process, which can take up to two months to complete, according to Ivana Batkovic, administrative secretary for the Journal of Law and Health, Moot Court and Law Review.

"Having the Journal online will speed up the publication process and, thus, it will help the publication attract more articles as we are able to publish articles quicker, decreasing the chances that an author's article will be preempted," McGuan said.

However, the Journal will also make paper reprints of the articles available for the authors, McGuan added.

Another important benefit will be the money that is saved by moving the Journal online as the printed version can cost up to $5000 to publish, according to Batkovic.

"An online Journal has and will continue to allow the Journal to reallocate funds that were traditionally budgeted for printing the Journal to the Journal's other main function: hosting lecturers like Professor Lex, of Temple University School of Medicine, who spoke at C-M and Professor Denno, of Fordham University School of Law, who will be speaking in the moot court room at 5:00 p.m. on April 5," McGuan said.

> 'In fact during the law school's ABA accreditation review last year, one of the assessors remarked that there was no reason for the law journals to remain in print form.'

The move also reflects a growing trend in favor of using online services to communicate ideas as opposed to the more traditional print media, Krishna said. This trend was highlighted in a July 2006 ABA Journal article, which explained the growing preference for online sources as opposed to the more dated print versions.

According to Krishna, last year's editorial board made the decision to move the Journal online, and this year's editor board is completing the transition.

"This decision was a wise one considering the trend towards greater online use and increasing online services," said McGuan. "In fact during the law school's ABA accreditation review last year, one of the assessors remarked that there was no reason for the law journals to remain in print form."

According to McGuan, the first online version of the Journal will feature articles by the head of orthopedic surgery at the Cleveland Clinic and the CEO of a local biotech firm that focuses on adult stem-cell research.

"We figure that these articles are appropriate for a groundbreaking issue like this one as they are consistent with the Journal's mission of (1) including doctors, lawyers, professors, law students, and other interested parties (like biotech businesspeople) in the debate that takes place on the Journal's pages; and (2) serving the Greater Cleveland community by facilitating a link between the medical and legal professions," McGuan said.

Volume 20 of the Journal will be free and open to public access at the Journal's Web site: http://www.law.csuohio.edu/students/JLH/index.html.

THE GAVEL
CLEVELAND-MARSHALL COLLEGE OF LAW
CLEVELAND STATE UNIVERSITY
216.687.4533 TELEPHONE
216.687.6881 FAX
GAVEL@LAW.CSUOHIO.EDU

**Co-Editors-in-Chief**
Margan Keramati
Kathleen Locke
Shawn Romer

**Staff**
Anonymous 1L
Drew Behnke
Paul Deegan
Joseph Dunson
Tiffany Elmore
Joanna Evans
Kurt Fawver
Emily Honsa
Brenda Hruska
Bradley Hull
Chuck Northcutt
John Rose
Kevin Shannon
Chris Tibaldi
Daniel Thiel
Ben Wiborg

**Contributors**
Aaron Mendelsohn
Dan Kelley
Lindsey Renninger
Michael Tripi

**Advisor** Thomas Buckley
**Printer** P.M. Graphics

http://www.law.csuohio.edu/students

# Top ten things to know about the bar exam

**By Marc D. Rossen**
Founder & Director of Supreme Bar Review

Hindsight is 20/20, especially when it comes to bar exam preparation. It is easy to see in retrospect how one should have gone about preparing to take the exam.

Since first-time test takers do not have the luxury of hindsight, I will share with you the top ten things that previous test takers wished that they had known when they began this process.

For best results, implement these ideas early in your law school career.

**1) Take bar exam subjects in law school.** It is called "bar review" for a reason. It is supposed to be a review of the subjects you learned in law school. The good news is that most of the subjects tested on the bar exam are part of your law school's core curriculum. But some of the subjects tested on the bar exam are offered by law schools merely as elective courses.

Therefore, it is up to you to make sure that you take these courses. While it is not fatal to your bar exam success if you have not had all of these courses, you should keep in mind that it will make the bar review process more difficult if you have to learn this material for the very first time in your bar review course.

**2) Start your bar exam application process now.** Get your bar application early and begin compiling the information you need now. If you have led an uneventful life, you may find that the process goes quickly.

For the rest of you, it is going to be a chore to compile a list of every place you have ever lived and worked and everything you have ever done (good or bad).

Don't panic just because you have a couple of speeding tickets in your past. The most important thing is to disclose everything.

Trying to cover-up your misdeeds is only going to get you in more trouble. Answer every question truthfully. If you don't have all of the information requested, you will need to do some research.

That is why you should start the process early. Otherwise you may not have the time to gather all of the required information before the filing deadline.

**3) Make hotel reservations and other preparations early.** If you do not live in the city where your state's bar exam is administered, you will need to stay in a hotel during the week of the bar exam. Expect to find a shortage of hotel rooms. Realize that you will be at a disadvantage if you have to stay far from the exam site. Therefore, you should make your hotel reservations as soon as possible to avoid being shut out of the hotel of your choice.

**4) Enroll in a full-service bar review course.** While I am certainly biased on this issue (full disclosure: I run a bar review course), I do not believe that anyone can be expected to pass the bar exam without the benefit of taking a course.

The typical bar applicant has approximately eight weeks to prepare. That's barely enough time to memorize all of the black letter law and figure out how to apply it to the various essay and multiple-choice portions of the exam.

You do not have time to reinvent the wheel by putting together your own bar exam study materials and then experimenting with various study methods to figure out what works.

Why not benefit from the collective knowledge and experience of those who have gone before you by investing in a good bar review course? That way you can spend your time and energy more productively.

**5) Figure out how you will pay for your bar review course.** I am always amazed by how little thought students give to the question of how they will pay for their bar review course and other bar exam expenses. Just like in law school, if you cannot afford the cost, you will have to apply for loans.

Many local banks offer Bar Exam Loans (BEL). Contact them now as the application and approval process can take a long time. In addition, some bar review courses offer scholarships and other financial assistance. There are also opportunities to earn your bar review tuition by becoming a bar review Campus Representative.

**6) Take the Multistate Professional Responsibility Exam (MPRE) early.** MPRE requirements vary from state to state. Some states require that you pass the MPRE exam in order to take their bar exam. Others will not allow you to be sworn in as an attorney until you achieve a passing MPRE score.

Regardless of your state's requirements, it is best to take the MPRE exam at the earliest possible opportunity. The test is given three times a year (in March, August, and November). Most students will take the MPRE during or after completing their law school course on Professional Responsibility.

**7) Do not work while studying for the bar exam.** Most bar applicants will be treating their preparation for the bar exam as a full-time job during the two months leading up to the bar exam. If you do not have the luxury of taking off two months from your current job to study for the bar exam, then you need to begin your bar exam preparation well in advance of the regular bar review session.

Contact your bar review provider about getting home study bar review materials (such as DVD videos of lectures) as soon as possible so that you can put in as many hours of prep time as everyone else over a longer time horizon. If you cannot do this in the months leading up to your bar exam, then you should consider postponing the bar exam until you can devote adequate time to preparing.

**8) Make a study plan (and stick to it).** If you breezed through law school without much effort, then you may resist what I am about to tell you: You must make a bar exam study plan and stick to it.

Unlike law school, there are no shortcuts in bar review. The bar review course that you are taking has already reduced the material to its most essential elements and rules. Now it is up to you to learn these rules and how to apply them.

This will require extensive review over several months. Creating a master study plan will help you break your bar review materials down to bite-sized pieces and keep you from getting overwhelmed by it all.

**9) Do NOT make outlines.** Make flashcards instead. Most law students are accustomed to outlining their courses in law school.

However, this is not law school. Forget about briefing cases, the Socratic method, etc. Your bar review course will give you a detailed outline of each and every topic. There is not much benefit in spending your precious time outlining these outlines.

Instead, simply reduce these outlines to a list of testable issues and then put those issues on the front of a note card. Put the corresponding elements or rule on the back. Now you've covered every ISSUE and every RULE of every testable subject.

If you think in terms of IRAC (Issue, Rule, Application, Conclusion), then you will recognize that the issues (I) and rules (R) on your flash cards are the basic building blocks of your essay answers. You are halfway done before you even walk in the door of the testing site. All that is left for you to supply are the APPLICATIONS and CONCLUSIONS, which you will formulate in response to your bar exam questions.

**10) Practice testing is the key to success.** A misconception that students have about studying for the bar exam is that they should focus their efforts on outlining and memorizing the material taught in their bar review course.

While a certain amount of memorization is required, that is only the beginning of the process. The real goal is to do as much practice testing as possible. In doing so, you will learn how to take the bar exam while at the same time learning the law.

While it is easy to self-grade the multiple choice questions, be sure to take a bar review course that gives you the opportunity to turn in practice essay tests to be graded by a licensed attorney and given back to you with a number score and detailed feedback. It is essential to get meaningful feedback on your practice essays in order to know whether you are on the right track.

This top ten list puts you ten steps ahead of your law school peers who have yet to figure these things out. Someday they will wish they knew what you knew at the start of this process. I hope this advice will help to make the bar exam a one-time experience for you. See you at the swearing-in ceremony.

Marc D. Rossen welcomes your questions about the bar exam and can be reached at (216) 696-2428 or by e-mail at: mrossen@SupremeBarReview.com

# C-M 1L misunderstood by fellow classmates

## Spotlight on the Student

## *Anthony Ashhurst*

**By Paul Deegan**
Staff Writer

Anthony Ashhurst is not your typical law student in a variety of ways. He raises questions in every class without fail. He is always willing to argue issues with fellow students or professors.

His outspokenness often invokes that "sour faced" look from his peers.

From all this, some students might have developed a view of Anthony as a "confrontational pessimist" since he is outwardly abrasive, argumentative and authoritative.

But despite his outward appearances, those who get to know him soon realize he is an honest, good-natured and good-hearted individual.

Anthony looks significantly younger than he really is. Anthony was born in Philadelphia, Pennsylvania in the late 1950's.

Anthony grew up in the 60's. He learned to depend on himself and became independent at 16.

After high school, he earned an Associate's Degree and then enlisted in the U.S. Army. Two years later, he became a commissioned officer, serving with Armor, Infantry, and finally Special Forces.

While in the Army, he completed a Bachelor of Arts in liberal arts, and after his honorable discharge, a Master's degree in American revolutionary history.

He taught history at both high school and college after a short period of time serving in law enforcement.

He kept searching for what he wanted to do with his life, and after saving enough money, he decided to attend law school in hopes of one day arguing before the U.S. Supreme Court.

Anthony says that his past experiences have given him the skills needed to successfully get through law school.

"Being able to adapt to different situations and the expectations of professors was the single most important skill I could have learned prior to attending C-M," Anthony said.

Anthony also attributes his ability to succeed on acting his apparent, rather than his real, age. Most people think he is around 30, and he takes advantage of that by acting younger to fit in and keep his mind young. When asked what he thinks the most important attribute of a law student is, Anthony said, "The ability to adapt while comprehending and synthesizing the material."

Some people perceive Anthony to be arrogant, abrasive, and annoying. Still, what some may perceive as arrogance or abrasiveness is actually just self-assurance and a willingness to question the status quo.

Long life and hard experience has taught him that individuals do matter, and anyone willing to take a stand can affect positive change.

# How to become a member of C-M's moot court team

**By Karen Mika**
LEGAL WRITING PROFESSOR

*How does one get onto Moot Court after the first year of law school?*

First-year students interested in moot court will submit their final advocacy project from legal writing to me by a date in April that will be announced at a later time.

I, along with the moot court board, select the top submissions and invite those students to the oral component of the competition.

The oral component consists of students presenting two 10-minute arguments to two panels of judges.

Legal Writing

The arguments are formatted as would an appellate argument (i.e., similar to those on Moot Court Night) and are essentially arguing the merits of the motion/document submitted for the competition.

Prior to the oral component, the moot court board holds sessions explaining how to do oral argument.

Thereafter, the board sets up practice rounds prior to the actual competition that takes place in May.

Selection is predicated on 50 percent oral score and 50 percent written score, and anywhere from 6-10 members are added each year depending on how many members have graduated.

Incoming members will take advanced brief writing in their second years, participate in moot court functions, and be part of one of our competitive teams.

For those students who do not choose to go out for moot court after the first year or do not make the team, there is also a second-year competition.

The second-year competition takes place each spring after students have completed a fall session of advanced brief writing.

The competition is similar to the first-year competition, except that an additional document (brief) must be written for purposes of the competition.

Students will then compete orally and argue both sides of the brief.

Four or five students tend to earn spots on moot court.

These students will become board members and compete in their third years.

**THE GAVEL**

CLEVELAND-MARSHALL COLLEGE OF LAW
CLEVELAND STATE UNIVERSITY
216.687.4533 TELEPHONE
216.687.6881 FAX
GAVEL@LAW.CSUOHIO.EDU

**We are always accepting submissions.
If you are interested in contributing to the Gavel, e-mail the editors at gavel@law.csuohio.edu.**

**Come Join Us!**

# Discovery rules evolve with technology

**By Aaron Mendelsohn**
GAVEL CONTRIBUTOR

On December 1, 2006, the Federal Rules of Civil Procedure were amended to include new rules for dealing with electronic data discovery.

With the proliferation of computers and massive data storage abilities over the past two decades, electronic data discovery has not only increased in scope, but it has also increased in volume.

With the proliferation of computers and massive data storage abilities over the past two decades, electronic data discovery has not only increased in scope, but it has also increased in volume.

It has been estimated that somewhere between 95 and 98 percent of all business records originate in electronic form.

This includes e-mails, databases, Web sites, design drawings, and can even include individuals' Internet browsing history.

In response to the manner data is maintained and exchanged, the Federal Advisory Committee made changes to Rules 16, 26, 33, 34, 37, 45, and 50 to help standardize the process of discovering electronic information.

With these new rules, new responsibilities may also be created for attorneys.

It will become imperative for them to understand the technology associated with electronically-stored information, be able to spot issues related to the technology involved, and be able to use the electronic information in cases.

Recently, *The Gavel* had the opportunity to sit down with C-M Professor Susan Becker to discuss the new rules, and some of the issues surrounding the changes.

Professor Becker is professor of civil procedure and is a member of both the Supreme Court of Ohio's Advisory Committee on Civil Rules and the Advisory Group for the U.S. District Court for the Northern District of Ohio.

***Q: What are the main differences between the old FRCP and the new ones that went into effect on December 1?***

A: The changes are extensive and involve amendments to almost all of the civil rules dealing with discovery. The main difference is that the rules now explicitly address electronic discovery. The many issues related to e-discovery were previously handled through trial judges trying to figure it out on their own.

***Q: What prompted the change in the rules?***

A: The rules changes were triggered by the technology explosion of the past couple of decades. Not only mega-corporations, but also smaller firms and businesses, and even individuals, are now creating and retaining almost all of their records in electronic format.

***Q: What type of requirements do the new rules place on attorneys? Have the penalties changed for non-compliance?***

A: One of the main requirements is that lawyers sit down with opposing counsel very early in the litigation to discuss whether e-discovery might present challenges in the case. If e-discovery is likely to be at issue, the attorneys are required to propose a plan to the presiding judge for managing those issues.

Issues like the timing of e-discovery, the format in which the e-discovery will be delivered to opposing counsel, agreements as to who will bear the cost, entry of a protective order requiring return of inadvertently disclosed privileged materials – these are all supposed to be resolved by the attorneys at the outset of the case (at least as far as possible).

The judge can then incorporate the attorneys' agreement into a case management order and set the standards for e-discovery in the case.

The penalties for failing to cooperate in e-discovery are pretty similar to those used previously, but with one major exception: additional and usually pretty harsh sanctions are likely to be imposed where a party intentionally or negligently destroyed evidence that they had an obligation to preserve for the litigation.

Courts were already imposing such penalties under the court's inherent powers, so this is not a huge change in practice, just a codification of this practice in the rules.

***Q: How do you think these changes will affect corporate litigation? Are they a good thing or a bad thing for the corporate legal team?***

A: These amendments are a good thing to the extent that they bring some uniformity to many of the key issues surrounding e-discovery in federal courts. But judges still have tremendous discretion on how to manage this aspect of litigation.

Corporate America and the lawyers who represent corporations are struggling to develop document retention systems that make sense from both a business operations and a litigation perspective. It is a daunting task.

***Q: How should companies go about preparing to comply with the new rules?***

A: Every company, regardless of its size, needs to develop, implement, and closely monitor a document retention system that will make compliance with these rules possible. Each company needs someone familiar with business operations and rules of court to accomplish this task.

***Q: Do you see these new rules changing the way companies do business?***

A: I don't foresee a radical change. Companies have long struggled with how to manage information and data retention, even when all records were written by hand and stored in manila folders.

Electronic creation and storage of records have made running a business easier in some respects and harder in others.

The federal courts have just raised the stakes in terms of negative consequences that might flow from bad data management policies.

But a well-run company already has solid data retention policies in place and should be able to tweak them to protect the company in the event of litigation.

***Q: Will these federal rules eventually trickle down to the state rules and local rules? How does that process work?***

A: E-discovery evidence is becoming an issue even in relatively simple cases, so each state will eventually develop its own standards.

A number of states, including Ohio, are looking very seriously at the federal model. But it is difficult to just take the new federal rules and integrate them into any state system.

Each state has its own set of rules and its own reasons for having those particular rules. Many states' civil rules differ significantly from the federal civil rules, especially in the area of discovery.

The process of rule amendments varies in each state.

Many states, including Ohio, have a standing rules commission or committee that makes recommendations to the state supreme court.

The Supreme Court then publishes proposed rules for public comment and decides, based on the comments received and other factors including the judge's individual opinion as to the wisdom of the proposed changes, whether to amend the rules.

***Q: Will these changes affect the way Civil Procedure and Evidence are taught at Cleveland State?***

A: I can't answer for all other professors, but I am only lightly touching on the subject in Civil Procedure. E-Discovery could be a 3-credit hour course on its own.

# The Political Broadside

## Does global warming warrant government action?

**By Bradley Hull**
Conservative Gavel Columnist

The U.S. Government must provide market-based incentives to businesses and individuals to effectively reduce greenhouse gas (GHG) emissions.

Many are concerned about "global warming". Scientists have observed increases in the Earth's near surface air and oceanic temperature.

The explanation they most commonly provide for this phenomenon is that current emission levels have caused GHGs to accumulate in the Earth's outer atmosphere and trap solar energy that otherwise would escape into space. Many predict that this will cause sea levels to rise, decrease the amount of fresh water available for consumption, and increase the prevalence and severity of storm systems.

However, scientists widely disagree whether the resultant environmental harm will be greater than trivial. Two examples illustrate the breadth of disparity among experts' opinions. Terry Root, Senior Fellow at Stanford University's Center for Environmental Science and Policy Institute for International Studies, recently remarked that with respect to global warming, "[w]e truly are standing at the edge of mass extinction" of species.

By contrast, Jay Zwally, current NASA scientist and the 1996 recipient of NASA's outstanding scientific achievement award, is unconcerned. In 2005, he concluded that sea levels would rise only by 5 centimeters over the next 100 years and 1 meter over the next 20,000 years, even if the historical pattern of fluctuating warming and cooling cycles ceased and the substantial 1992-2002 temperature increase continued unabated. However, the U.S. need not await resolution of this dispute before acting. There is no downside to reducing GHG emissions.

California's 2006 Global Warming Solutions Act and Governor Schwarzenegger's October 18 Executive Order directing its implementation provide a model for the U.S. government to follow. The California plan establishes a target emissions reduction schedule whereby the Golden State will reduce its overall 2010 emissions to 2000 levels, its 2020 emissions to 1990 levels, and its 2050 emissions to 80 percent below 1990 levels. The Order primarily utilizes *incentives* as the main tools by which to reduce California's GHG emissions. It provides for research tax credits, monetary and non-monetary incentives, public/private partnerships, investment tax credits, and accelerated depreciation. These incentives hope to encourage individual as well as corporate compliance and investment in GHG-emission-reducing technologies.

The Order explicitly references studies finding that market-based mechanisms provide an important means for the most effective and efficient reduction of GHGs. These studies include those conducted by Stanford University, The University of California at Berkley, and the Pew Center on Global Climate Change. In addition, the United States should follow the lead of the European Union Emissions Trading Scheme in implementing a "cap and trade" system. In such legal schemes, a governing body releases a fixed number of emission "allowances" per company. Each is then allowed to sell or purchase unused "allowances." The genius of this system is the incorporation of GHG reduction as a variable into a corporation's calculation of the economic wisdom of a business move.

These incentives and allowances must reward both the reduction of overall energy use and society's shift toward the use of alternative energy sources other than carbon-based fossil fuels. Further, they must be available to both corporations and individual citizens, with manufacturing companies specifically targeted. As highly respected Atmospheric Chemistry Researcher Jim Schwab noted in 2002, the industrial sector is responsible for almost 40 percent of U.S. energy consumption.

Some clamor exists for immediate governmental *regulation* of energy usage. Indeed, a Berkeley study found that regulatory schemes are complementary with (though not as efficient as) market-based solutions. However, given the tortured history of intervention into highly specialized private sector industries by untrained and self-righteous politicians, government should now play as passive a role as possible in reducing GHG emissions.

**By Joseph Dunson**
Liberal Gavel Columnist

The federal government must take swift and decisive action to combat global warming.

It must restrict dangerous emissions before they cause irrevocable damage to the atmosphere and consequently jeopardize humankind's place on this planet.

This is not a partisan issue.

It is a human issue that impacts every living person and those of future generations.

Climate change regulation enjoys the scientific community's support.

The U.S. Climate Action Partnership "USCAP" is an NGO comprised of industry leaders and public interest groups.

Its members include Alcoa, BP America, Caterpillar, and GE. According to USCAP, "[i]n June 2005, the U.S. National Academy of Sciences joined with the scientific academies of ten other countries in stating that 'the scientific understanding of climate change is now sufficiently clear to justify nations taking prompt actions.'"

Such sentiment is shared by a growing number of energy leaders. According to the CEO of Duke Energy, "[t]he science of climate warming is clear. . . We know enough to act now... We must act now. . . It must be mandatory so there is no doubt about our commitment to concrete action."

USCAP itself, with its energy industry members, "supports a nationwide cap that would reduce the amount of carbon dioxide by up to 10 percent within 10 years and by as much as 30 percent in 15 years. By 2050, the levels of carbon dioxide would be cut by 60 to 80 percent from current levels."

Several bills with bi-partisan sponsorship propose various courses for emissions regulation. The most centrist approach comes from Senators Specter and Bingaman, who would "implement a cap-and-trade program to gradually slow the growth of greenhouse-gas intensity, or the amount of greenhouse gases emitted per dollar of gross domestic product, beginning in 2012."

Critics of the cap-and-trade approach argue that it unduly delays the reversal of emissions' effects.

The McCain-Lieberman bill now claims Senator Obama as a co-sponsor and would "require industries to reduce their emissions to 2004 levels within five years, and then gradually on down to 66 percent below 2000 levels by 2050."

The most ambitious bill proposed by Senators Sanders and Boxer "calls for 80 percent emission reductions from 1990 levels by 2050, which would be achieved through a series of tough targets along the way, combined with incentives for clean energy technologies."

Remarkably, these bills will all most likely fail. Even when considering mountains of scientific evidence, the Kyoto protocol, the Intergovernmental Panel on Climate Change, our own National Academy of Sciences, energy industry advocates, and bi-partisan Congressional support, these bills still fail.

Why is that? Is it because the legislators set to vote against the bills have access to secret, cutting edge scientific studies that refute global warming? Or is it more likely that energy industry giants tend to donate handsomely to certain legislators' campaigns?

Federal regulation of emissions is essential to our future. The science is clear.

The energy industry has begun to recognize that it's in their interest to help shape emissions control laws rather than to fight their eventual passage.

Even Exxon Mobil, the strongest energy industry opponent to regulation, recently cut its funding to the 'Competitive Enterprise Institute', which is the junk science 'think-tank' that claims emissions are helpful to the environment.

We must commit to safeguarding our future on this planet before it's too late.

By capping emissions and curtailing the effects of global warming, we can ensure climate stability for future generations and set a strong precedent that as a nation we are stewards of the earth's resources.

## Liberal rebuttal...

The 'cap and trade' program for which you argue may prove to be an effective method for cutting emissions levels.

'Cap and trade' is a regulatory system that harnesses free market principles to reduce emissions.

It is a brilliant fusion of market efficiency and essential governmental intervention.

Such a program worked wonders on the acid rain problem.

The issue here is whether 'cap and trade' would work quickly enough to combat emissions' effects before they become irreversible. Some scientists say that in the forms currently discussed, it wouldn't.

I disagree with your contention that this nation has a "tortured history of intervention" by "untrained, self-righteous politicians." It is Congress' job to intervene. Where would this nation be without the EPA? The FDA? The NHTSA?

Sometimes 'cap and trade' programs offer the best balance between government control, which in its worst form stultifies business. Unfettered industry, at its extreme, jeopardizes the environment.

To protect our people and our earth, government has to take over when free market principles fall short.

Was the passage of the Fair Labor Standards Act one tragic episode in your 'tortured history'? Was the creation of OSHA? How about Title VII? These all restrict various 'highly specialized private sector industries.'

## Conservative rebuttal...

Flip-flop. The experts (the majority of social scientists) find that out-of-wedlock birth is the factor most highly linked to U.S. poverty. In attempting to explain Cleveland's poverty in September's column, you ignored its exorbitant single parent birthrate.

The experts (the majority of economists, Chambers of Commerce, and small business lobbyists) find that raising the minimum wage hurts many in poverty, and small businesses. In October's, you ignored both.

The experts (virtually all world economists) find that free trade benefits all trading-partner nations and the world in its entirety. In January's, you ignored their findings regarding FTA effects on Ohio.

Here, you finally accept many expert findings. Immediately, you then grossly exaggerate those concerning global warming's harm.

Your regulation-first response makes no economic sense. USCAP declares its "environmental goal and economic objectives can *best* be accomplished through [a]…market-driven approach…[including] a cap-and-trade program…" Additionally, it proposes regulatory compliance cost-offset measures.

The EIA found Bingaman-Specter's bill would cause little economic damage. Altering "allowance" quantities can allay fears of delayed emission reduction. Labor-funded liberals will likely ground the others because industry is America's largest energy consumer, and unions would ultimately bear the compliance costs. "Punish business!" is your columns' only consistent theme. Conspiracy theories, anyone?

# Opinion

## Bar Exam is waste of time, money and energy

**By Kurt Fawver**
GAVEL COLUMNIST

The bar exam is pointless.

There, I've said it, the heresy of all heresies. The bar exam is nothing more than an inane roadblock on the path to legal practice.

It serves no functional purpose. It undermines the essence of legal education and it is ridiculously costly and time-consuming.

The bar exam, frankly, should be abolished as a requirement for legal licensure.

I have never heard a cogent, convincing argument advocating the bar exam's existence.

*Respectfully dissenting*

Some claim that the bar exam tests the substantive knowledge you've accumulated through law school and can, ultimately, gauge your ability to practice law. But is this actually true?

The bar exam supposedly tests the retention of core subject material from law school, yet everyone takes at least one bar review course in preparation. Why? If we learned what we were supposed to, enough to be promising young lawyers, we shouldn't need a bar review, should we? Of course not. A few subject outlines and some Nutshell guides should suffice.

Yet, most law students shell out several thousand dollars to BarBri or Supreme Bar Review.

The truth is that no one really mastered contracts or torts or civil procedure their first year and, even if they did, they have since forgotten much of what they learned.

The same applies to classes in any other bar subject, whether taken first year or last semester. We simply forget many of the minute caveats that the bar is so loathe to examine. Then, after graduation, we're supposed to pull the mother of all cram sessions.

We try to fit three years of learning into just a few weeks. We may have never even been exposed to some of the bar subjects before a review course, either.

With this sort of tight timetable, and with so much hasty cramming, is anyone actually learning anything? If not, what is the bar exam really testing? The knowledge you gained through your law school curriculum or the short-term memory recall of your bar review course? I'm betting on the latter.

If this is the case, the bar exam becomes not a test of your ability as a potential lawyer, but a test of your memorization skills. There is less emphasis on understanding than on mindless regurgitation. You might as well substitute a game of Guess Who or Memory for the bar exam.

All the cramming and all those bar review courses are also completely antithetical to the legal education you just completed.

How? Consider this: for three years, you plod through law school, trying to learn, trying to make out good grades, and then it's all over.

You earn your degree, but you're still not a lawyer. You have to pass the bar exam to become one. So why is the JD necessary? Is it preparation for the bar? Not really, given the aforementioned cramming and bar review courses.

Those are the true, and perhaps most useful, preparatory tools for the exam. So were the last three years a waste of mental energy, when all you have to do is pass one test to become a lawyer? Maybe, and that is precisely why the bar exam undermines legal education. It deemphasizes those past three years of schooling and places your entire focus on one standardized test.

> You might as well substitute a game of Guess Who or Memory for the bar exam.

Sure, you need a JD to sit for the bar exam, but that almost seems like a formality, no different than writing your social security number or listing previous employers. The goal of the future lawyer, and what everyone pounds into your head the minute you enter a law school, is to pass the bar, not to attain your JD.

So, is there any reason the bar exam might be necessary? To ensure that new lawyers realize the peculiarities of practicing in a particular jurisdiction, perhaps? It seems to me that a single test is a terrible means of acclimating potential lawyers to jurisdiction-specific rules and regulations.

The knowledge required to practice law in specific jurisdictions could just as easily be imparted through continuing legal education courses.

CLE courses are how many lawyers become informed on important changes in the law. They are necessary and, in many cases, required in order to remain in good professional standing. There is no reason why bizarre statutes or unique procedural rules could not be learned through this system.

True understanding of law can only arise through practice. Virtually all law professors have practiced before teaching.

These individuals have perhaps the most intimate knowledge of the intricacies of law. Yes, they may have done well in law school or on the bar exam, but their rich understanding of legal principle comes from their time in practice and years of hands-on research, not from a Gilberts law summary or a Thompson-West casebook.

This is why some sort of apprenticeship program should take the place of the bar exam. A required one to three years of working extensively and closely with a licensed professional lawyer would be much more beneficial than studying for, and passing, a test.

Once these years of service are completed, and the licensed lawyer is satisfied that the apprentice is able to work alone and has sufficient mastery of the law, he or she can refer the potential lawyer for licensure. This extremely brief plan is merely one method of licensing lawyers that could be used in lieu of the bar exam.

The problems with the bar exam are legion. It would take a book to catalogue them all and a companion volume to explain how to rectify them.

Clearly, the bar exam is not going to disappear overnight.

However, I urge current and former lawyers, professional academics, and, most of all, law students, to rethink the system and try to see the bar exam for what it is: a useless test of memory that does not help build legal skills but, instead, undermines the three years of your life spent pursuing a career in law.

---

## We broke Iraq, and now it's time to pay for it

**By John Rose**
GAVEL COLUMNIST

By now we all know that Democrats won sweeping victories in the recent mid-term elections last November.

In large part Democrats were swept into office because of the American public's increasing dissatisfaction with the war in Iraq. Some Democrats ran on a promise to set a firm timetable for troop withdrawal.

By all accounts, the American public is just plain sick of this war. One recent poll indicated that almost 60 percent of respondents favor a scheduled withdrawal with troops to be out of Iraq by 2008.

This same poll showed that almost 70 percent of those asked believe Congress is better suited to manage the war than the President. This particular poll reflects what most other polls are saying: the will of the people has turned against this war and against the president they hold responsible for waging it.

Now, this is going to sound elitist, but I think that these people are wrong.

Not in their opposition to the war, but in their desire to simply pull up stakes. My disagreement is based on moral grounds. Not so-called "morality" as a partisan billy club that social conservatives have used to poison political discourse in this country.

No, this is the good, old-fashioned American notion of giving your word and keeping it. Simply put, the Iraqi people who are suffering under a civil war didn't ask us to come in and invade their country. We did that on our own and under dubious circumstances.

*Gavel Columnist*

Then-Secretary of State Colin Powell was quoted as telling the President that war with Iraq would carry with it what came to be called "The Pottery Barn" rule: you break it, you bought it.

Powell supposedly told Bush that if he went forward with the invasion, "You are going to be the proud owner of 25 million people. You will own all their hopes, aspirations, and problems. You'll own it all."

Well, we all know what the President did. He went ahead, broke it and bought the whole damn thing. And we own it - make no mistake.

> My disagreement is based on moral grounds. Not so-called "morality" as a partisan billy club that social conservatives have used to poison political discourse in this country.

We've put what is probably only a down payment on it, in the lives of American soldiers and Iraqi civilians, as well as a yet-to-be-determined figure that may run to a trillion dollars.

That's a hell of a cost, and as so often happens, the people who make the decisions don't have to pay it.

President Bush, as Commander-in-Chief, has a solemn duty to not squander the lives of our armed forces. I can't think of a more important responsibility that he possesses.

It seems that the very best that we can say about how he performed that duty is that he was overly eager to dismiss contrary opinions held by seasoned and patriotic military and diplomatic professionals.

Many Democrats and almost all Republicans in the House and Senate don't want to get into too deep an exploration of how this could have been so badly botched. It won't serve any purpose, they say, and will further polarize this country. I'm afraid I have to disagree with that as well.

The fact is that we did buy it, with blood and treasure, and nobody can give us an honest answer as to *why* we bought it. That's not good enough.

The war planning, the use or misuse of prewar intelligence, and the campaign to silence questions or dissent should all be honestly, openly, and fairly investigated.

If after this inquiry it's found that the President was simply mistaken in his assumptions, then Democrats should accept that and move forward.

If, however, it's found that the President misled the Congress and the American people about what he actually knew, then this should open the door for further and more probing investigations. You know the type: just bend over and try to relax, Mr. President.

As the band U2 put it, we're stuck in a moment and we can't get out of it. It would be wrong of us to leave somebody else to clean up our mess.

But while we're trying to clean up that mess, we damned sure ought to find out why we made the mess so we won't do it again.

We owe that, and so much more, to the troops who are serving there, and to those who won't be coming back.

# SBA president thanks work for successful Barrister's Ball

**By Scott Kuboff**
SBA President

On behalf of my fellow SBA officers – Meredith Danch, Chan Carlson, Nick Hanna, and Jaime Umerley – I want to assure you that we remain dedicated to improving your quality of life here at C-M.

On March 3, 2007, over 250 faculty, alumni, and students attended Barrister's Ball at the Hyatt at the Arcade in downtown Cleveland.

The keystone of the formal affair was the awarding of several honors including: Faculty of the Year to Professor Kevin O'Neill; Staff of the Year to Israel Payton; and the Stephen J. Werber Collegial Integrity Award to Maggie Troia.

Ms. Troia was the first student recipient of the Collegial Integrity Award because she has exhibited high character, collegiality and an outstanding commitment to C-M and the surrounding community during her three years of school.

SBA President

I would like to thank Vice President of Programming, Meredith Danch, for her hard work, dedication, and patience in making Barrister's Ball a success.

Additionally, I would like to thank Ryan Feola and Bar/Bri for sponsoring this year's event as well as their continual support of C-M.

Earlier this year, your Student Bar Association was successful in obtaining an additional allocation of $7,500 in General Fee funds.

This additional allocation has enabled your SBA to increase the size of its special needs budget.

This fund is available to student organizations – in addition to their initial funding – upon a showing of a special need and a beneficial use to the students of C-M.

If your student organization is in need of additional funds to host an event, I encourage the student leaders to submit requests for special needs funds.

In doing so, please refer to the SBA fund allocation procedure to ensure your request conforms to the guidelines.

This year, SBA officer elections will be held on Tuesday, April 10 and Wednesday, April 11.

The positions to be elected are President, Vice President of Programming, Vice President of Budgeting, and Treasurer.

The following week, Tuesday, April 17, and Wednesday, April 18, your SBA will be holding elections for the Senate seats.

For students interested in running, your SBA will be discussing the election guidelines at our next meeting, Sunday, March 25 at 6:00 p.m.

I encourage all students to take an active role in student governance.

Finally, for additional information please visit your SBA's Web site at http://www.law.csuohio.edu/students/SBA/index.html.

As always if you have any questions or concerns, please feel free to contact me at your earliest convenience.

# Legal writing department unfairly reviewed

**By Kathleen Locke**
Co-Editor-in-Chief

Recently, the C-M legal writing department underwent an external review by three legal writing professors: Jan Levin from Temple University, Sue Liemer from Southern Illinois University and Judy Rosenbaum from Northwestern University.

As part of their review, the professors observed legal writing classes and met with students both in private and in open sessions.

Interested in writing an actual news article about the review, I attended an open session with the legal writing professors. I went in to the session hoping the professors would reveal some of their opinions that they had already formed about our legal writing department, but I mainly expected that students would be there to voice various complaints about their respective professors.

The Gavel
*Editorial Opinion*

However, what was actually discussed at the session left me doubting the wisdom in bringing these three professors in and skeptical at the actual effectiveness of this review.

As the session began, the professors discussed some of their initial criticisms with our legal writing departments in a manner that I initially thought was just surprisingly candid.

Going into the session, I had the impression that each of these professors had conducted similar reviews at other schools, and therefore, this previous experience made them qualified to come in and review our school.

So as the panel began to discuss some of their observations about our legal writing department in a "my school is better than your school" format, it quickly became apparent that at least in this session, they were simply evaluating their own teaching styles with that of our professors.

The panel went on to boast about the various programs that their respective schools offer to their students.

This was especially surprising because it revealed the lack of knowledge and undervaluation of our school that the panel actually had as one of the professors bragged about a great opportunity that her school provides students – they are able to clerk for state and federal judges and actually receive credit for it.

Looking around, most students, who were already dumbfounded about the discussion that had taken place thus far, looked shocked that she would actually boast about something that our school offers as well.

And, after awhile, it became completely insulting especially because our legal writing department has traditionally been one of the strongest programs at C-M, or at least that is what we have been constantly told throughout law school.

Our legal writing department has not only prepared C-M students to have solid legal writing skills to carry them through summer jobs and clerkships, but the department has also built successful and nationally-recognized moot court programs.

After taking a few blows, students began to defend their legal writing professors and the experience they had throughout their first year. For example, while the legal writing panel clearly felt that students were best served with less classroom time, some students suggested that that particular approach would not have worked best for them.

And, after awhile, it became completely insulting especially because our legal writing department has traditionally been one of the strongest programs at C-M...

And while other students voiced specific complaints about their legal writing professors such as a lack of availability and constant cancellation of student conferences, other students countered that they had the exact opposite experience.

What became very clear after much back and forth was that everyone's experience really depended on what professor they had and what teaching style was most conducive to that particular student.

Such complaints could also be directed at any other professor not just the legal writing department.

First-year students are in the unfortunate position of being placed in classes without knowing anything about that particular professor whose class they will be in for an entire year.

For the most part, second, third and fourth years have a heads up about what to expect when they take a professor, and even if they are not happy with their choice, at least they only have to put up with the class for one semester.

Maybe the solution would be as easy as matching incoming first years with legal writing classes that would be most beneficial to their particular needs. This would at least solve the students' complaints at this particular session.

One thing that the panel and most students were able to agree on during the open session was the importance of a quality legal writing department and the undervaluation or lack of respect that these professors actually have within C-M.

The problem is not that one professor spends too much time on grammar while another has a less than reliable teaching assistant.

If we are going to start nit picking at professors, then let's not limit it to the legal writing department. But this would never happen. Why? Well, one reason is that not every student has the same experience with a particular professor.

C-M prides itself on having a diverse student body, and what works for some students doesn't work for everyone. So while some students hate in-class legal writing sessions, other students want the extra class time.

Therefore, if we are going to have an external review panel criticize our legal writing professors, they ought to have some understanding of our students, what C-M offers and whether a cookie-cutter approach would best serve our students.

Unfortunately, it seems that the panel did not take any of this into consideration.

Perhaps the real problem is the attitude that we have towards our legal writing department, which is further exemplified by bringing in an external review to look critically at each of these professors while all other departments are left untouched.

# 1L begins semester with new approach

*The following is the next part in the series following a first year C-M student from orientation to spring exams.*

So you've joined me for another round of the mysterious 1L. I'm not going to lie to you because you're my reader, and you deserve the truth or something to that end.

So a moment of honesty - I got kicked in the nether regions when it came to grades.

1L
*First year life*

It was horrible in many ways, getting a letter saying that I had done less than great. Going from the top of the pile and sliding all the way down is never a good feeling.

It's similar to when you walk into the cafeteria and smell "mystery" loaf. It's a sinking feeling in your stomach. It's failure so bad you can taste it in your mouth. Gut-wrenching isn't it?

For the few of you who know what I'm talking about, you have my deepest sympathies because some of you have no reasons or ideas as to why you failed.

You put in the time, raised your hand and contributed, studied in the library the whole nine.

As for myself, I know why. I just didn't care. It was the first time being on my own, and I was loving it.

I partied heavily, and well, you always pay the price - so combine heavy partying with no studying and you've got failure, pretty easy.

So now I've got myself a little conundrum on my hands.

Do I ease up on the partying and get my posterior into first gear, or do I just keep sliding on into the abyss of mediocrity.

I was content with mediocrity, no lie. Until I went and saw Daniel and after hearing his advice on things, a little brain activity did start up, and as I was sitting down to write this column for you my few faithful readers, it hit me!

It's Showtime, and I don't want to be dead last, forget that bull, I've got what it takes, and I personally am tired of hearing more than a few jokes about my lack of study habits.

Now don't get me wrong, I'm not looking to put up shop in the library. Forget that. It has never been my gig - never will be.

I'll leave that to the top ten percent of the class, cough cough nerds.

But this chap is turning professional student for the next three months, and all smart ass remarks aside, I wish each one of you the best.

# LETTERS TO THE EDITOR

## Student responds to column criticizing smoking ban

"My rights end where yours begin."

Nadine Strossen, the first woman to head the ACLU, once said this quote in a speech.

All of the dedicated smokers in Ohio need to deeply think about their stance on the issue of smoking in public places like bars and restaurants.

Chuck Northcutt, the author of last month's *Gavel* article claiming the new smoking ban in bars and restaurants is unconstitutional, never mentions non-smokers' rights.

Many states are starting to enact smoking bans in all public places, including bars.

For a time I felt the same as those who voted against issue 5: it is a personal choice to smoke in these establishments, and it is important to protect small business owners.

What changed my mind? When trying to defend this position, I had that sinking feeling one has when they realize their argument is weak. I couldn't hold my ground because of the obvious: freedom is by definition freedom to do what you want, as long as it doesn't infringe upon the rights of others.

It has become the norm for most scientific and medical communities to try to stop second-hand smoke. The Washington Post, in June 2006, discussed the most extensive study ever done on the issue and quoted the Surgeon General in claiming the following: those exposed to second-hand smoke, even for thirty minutes, are 20-30 percent more likely to contract lung cancer or heart disease. The tobacco lobbies mostly say the evidence is inconclusive.

Even if health concerns are a complete farce, smoking violates non-smokers' rights to get away from the foul smelling chemicals in the air.

Most people have come to believe, at least to a degree, that second-hand smoke is a danger, even with Mr. Northcutt's anecdotal evidence that he was a Marine despite his parents' smoking! I am in no way diminishing his service; in fact I am a veteran of active duty military myself. However, veterans are not necessarily more freedom loving than other Americans.

The 14th Amendment and the 5th Amendment are as dear to my heart as they are to Mr. Northcutt's. Our rights to due process that prevent the state from taking away our property or freedoms are precious to us all. But, are these rights absolute?

Most of us have heard many times now the phrase by one of our professors: "no right is absolute." I submit that the government is not infringing on your due process rights.

By limiting where one can indulge in a cigarette to places that are unlikely to hurt the general public, the law does not take away your right to smoke. That's right, I said it: "your right to smoke."

Mr. Northcutt's suggestion that us do-gooders really want to ban ALL smoking is unfounded. I would go so far as to say I will march right along with all smokers to ensure they can smoke. I will march with anyone fighting for personal bad habits to be kept legal when they only hurt themselves.

Finally, I urge all of those who voted against the ban to stop trying to scare others into thinking that this is the end of freedom, at least in this case.

We all must be very aware of tyranny. We all must monitor our government when they seek to take away our civil rights. Too many Americans are passive and assume that their rights will always be there because for most of us today, that is the only life we've ever known. On this, I couldn't agree more with someone fighting passionately to get laws overturned that violate our civil rights.

This just isn't one of those times. The people of Ohio have spoken: we want freedom to breathe cleaner air. We want to go to bars and not have our clothes, jackets and hair reeking of smoke (not to mention never having the occasional burn hole again). We want smokers to face facts- by June it'll be "lights out" in public.

Chris Tibaldi, 2L

## 2L upset over CWRU professor's use of biased book

Ilan Pappe. Ilan Pappe. That is a name that I haven't heard since my swift exit from the ivory tower of academia.

The name was enough to conjure up memories of frustration, academic politicking, and my disgust for what has become the "publish or perish" trend in academia.

"Publish or perish" as long as it's trendy, even if what you are publishing is rubbish, even if it misconstrues history and blurs reality and assists to perpetuate ignorance and propaganda.

That was one of the primary reasons I left academia and entered the legal profession. Being based in reality is essential to the practice of law, while manipulating reality is the latest fashion in academia.

I heard the name Ilan Pappe recently at the Hillel office next to Case Western Reserve University. The person who mentioned Ilan Pappe is a student in Professor Alice Bach's class at Case.

Bach is the Archbishop Paul J. Hallinan Professor of Catholic Studies and teaches a course called "Palestine and Israel: Whose Promised Land?"

Hillel was conducting a meeting to respond and react to a presentation riddled with bias and falsehoods. Halper is the head of the so-called Israeli Committee against House Demolitions, a persistent and harsh critic of Israel, and a charlatan.

When I asked the student what textbook Professor Bach uses, he told me it was a book by Ilan Pappe. Anyone who is familiar with the works of Ilan Pappe knows immediately that Bach's class was not getting a balanced education on the Israeli/Palestinian conflict.

Ilan Pappe is an Israeli historian who teaches at Haifa University.

He is one of the "new historians" who hold controversial views about the history of Zionism and Israel. Modern historians do not take Pappe's work seriously. Pappe's intentional bias and recreation of facts is a severe blow to the integrity of true historians and any real progress in the Israeli Palestinian conflict.

In Pappe's own introduction to his latest book, *A History of Modern Palestine: One Nation, Two Peoples*, he unabashedly admits his bias and partisanship: "My bias is apparent despite the desire of my peers that I stick to facts and the "truth" when reconstructing past realities. I view any such construction as vain and presumptuous. This book is written by one who admits compassion for the colonized not the colonizer; who sympathizes with the occupied not the occupiers."

This is a curious way for a historian to begin a book.

From the start Pappe admits he is biased and that he is reconstructing history. To equate Zionism with colonialism is a tragic falsity that has been perpetuated by Arab propaganda since the early twentieth century.

Perhaps the best critic of Ilan Pappe is Ephraim Karsh, who reviewed Pappe's latest book. Efraim Karsh is director of the Mediterranean Studies Program at King's College, University of London and editor of the quarterly journal *Israel Affairs*. He is the author of *Arafat's War: the Man and His Battle for Israeli Conquest* and *Fabricating Israeli History: The New Historians*.

Karsh comments, "[The] Publication of *A History of Modern Palestine* by a prestigious academic press [Cambridge University Press] is a sad testament to the pervasive politicization of Middle Eastern studies where the dividing line between academic scholarship and unadulterated propaganda has been blurred, if not erased."

More serious is the book's consistent resort to factual misrepresentation, distortion, and outright falsehood. Readers are told of events that never happened, such as the nonexistent May 1948 Tantura "massacre" or the expulsion of Arabs within twelve days of the partition resolution. They learn of political decisions that were never made, such as the Anglo-French 1912 plan for the occupation of Palestine or the contriving of "a master plan to rid the future Jewish state of as many Palestinians as possible."

I think it is helpful to think of Israel's right to exist in peace and security as a trial. Think of Professor Bach as the prosecution, and think of, well, no one as the defense.

Not quite the idea the founders had when writing the Constitution. To say that the occupation of Palestinian territories, which most Israelis admit were confiscated legally after the 1967 war, a war that was the result of an unprovoked, concentrated attack on Israel by its surrounding Arab neighbors; to say that this occupation is the sole cause of conflict and violence committed by Palestinians is to state the effect without cause – a product of the very antithesis of human logic and reason.

As if using a book by Ilan Pappe was not enough, Professor Bach was also responsible for bringing Jeff Halper to Case.

His presentation was nothing more than a selective application of facts and misinterpretations to present an illogical point of view. Halper's diatribe about how Israel's ultimate goal of colonial conquest was not supported by a single documented fact.

He was strangely silent about what occurred before 1967, perhaps it was because there were was not a single settlement before this date.

He made no mention of the Gaza pullout, but much more importantly he completely ignored the tragic history of failed Palestinian leadership, beginning with the first Palestinian leader of the twentieth century, Mohammid Amin al-Husseini.

Al-Husseini initially focused his efforts on Pan-Arabism and a greater Syria – in particular having Palestine become a southern province of an Arab state with its capital in Damascus.

And when the French army deposed Faisal, al-Husseini turned from a Damascus-orientated Pan-Arabism to a specifically Palestinian ideology centered on Jerusalem and expelling the Jews and foreigners from Israel.

He met with Adolph Hitler and believed in the final solution. Until the end of World War II, al-Husseini worked for Nazi Germany as a propagandist for the Arabs and a recruiter of Muslim volunteers for the German armed forces. He incited a campaign of violence, murder and hate against an unprovoked Jewish population in Israel, including the 1929 Western Wall riots and the Hebron and Safed Massacres.

Al-Husseini may be gone, but his ideology is still echoed by Hamas, Hezbollah and others, including Iranian President Ahmadinejad.

After World War II, the UN-approved partition of Palestine was rejected by the Arab nations. Israel, once again, had to fight for its independence. To this day, many Arab countries still deny Israel's sovereignty and right to exist.

Obviously, these are only a few examples of a long tortured and shameful history in the region, and if all of the unfortunate facts were to be presented in a court of law, those who call Israel an apartheid colonial nation are the ones who would want a prompt and quick settlement before the merits could be reached.

Of course, this does not mean that I am for the occupation. In sharp contrast, I think we need to return to the 1967 borders, flush out the primitive and draconian ideology of the settlers, and put an end to the intolerable misfortunes of the Palestinians in the West Bank.

But more importantly, occupation is not a devious Zionistic plan that came to fruition magically. To every cause, there is an affect. Palestinians and Arab nations need to account for their contribution to the cause.

I have no problem with Professor Bach teaching Pappe's book, as long as it is taught in conjunction with another book such as Ephraim Karsh's book.

Even *The Idiots Guide to the Israeli Palestinian Conflict* would be more productive. The low point of the meeting on Monday was when two Arab students joined the discussion. I tried to tell them about what led up to 1967 war, and one of the students replied, "I'm not going to get into a historical debate with you."

And that's the real tragedy. Professor Bach, you are helping to perpetuate falsity and propaganda, ensuring that we will have to suffer through more generations of ignorance and move further away from recognizing a more accurate history and reality that Jews and Muslims face in the Middle East.

But more importantly, Case Western Reserve, as a reputable academic institution of high integrity, you should be ashamed of yourself from this lack of oversight and intellectual degradation.

Yearachmiel Eric Holtz, President C-M Jewish Law Students Association